



[4910-EX-P]

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2018-0347]**

**Commercial Driver's License Standards: Application for Exemption; Navistar, Inc. (Navistar)**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant an exemption from the commercial driver's license (CDL) requirements to Navistar, Inc. (Navistar) for a commercial motor vehicle (CMV) driver, Mr. Anders Björkman, employed as an engineer by Navistar's business partner Scania AB (Scania). Navistar and Scania are subsidiaries of Germany's TRATON SE. Mr. Björkman holds a valid Swedish commercial license and wants to test drive Navistar CMVs on U.S. roads to better understand product requirements in "real world" environments and verify results. FMCSA reviewed Mr. Björkman's commercial license records provided by Navistar, and believes the requirements for a Swedish commercial license, and the terms and conditions set forth below, including a Navistar-administered drug and alcohol testing program, will ensure that his operation under this exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

**DATES:** This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires September 23, 2027.

**ADDRESSES:** *Docket:* For access to the docket to read background documents or comments, go to [www.regulations.gov](https://www.regulations.gov) at any time or visit Room W12-140 on the ground

level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

**FOR FURTHER INFORMATION CONTACT:** Ms. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 366-4225 or by e-mail at [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation**

#### ***Viewing Comments and Documents***

To view comments, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number, “FMCSA-2018-0347” in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number “FMCSA-2018-0347” in the keyword box, click “Search,” and choose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

### **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and the public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Current Regulatory Requirements**

Under 49 CFR 383.23, no person shall operate a commercial motor vehicle (CMV) without first having taken and passed the knowledge and driving skills tests for a commercial learner's permit or CDL that meet the Federal standards in subparts F, G, and H of part 383 for the CMV that person operates or expects to operate. Such drivers are also subject to the controlled substances and alcohol testing requirements of 49 CFR part 382.

### **IV. Applicant's Request**

Navistar has applied for an exemption for Anders Björkman from 49 CFR 383.23 because he is unable to obtain a CDL due to his lack of residency in the United States. Navistar states that Mr. Björkman is employed as an expert engineer by Navistar's

business partner Scania in Sweden. Navistar and Scania are both subsidiaries of Germany's TRATON SE.

Mr. Björkman holds a valid Swedish commercial license. The exemption would allow him to operate CMVs in interstate or intrastate commerce to support Navistar field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. According to Navistar, the driving will consist of no more than 250 miles per day, for a total of 500 miles during a two-day period on a quarterly basis.

#### **V. Method to Ensure an Equivalent or Greater Level of Safety**

According to Navistar, the requirements for a Swedish commercial license ensure that the same level of safety is met or exceeded as if this driver had a CDL issued by one of the States. Navistar explained that Anders Björkman is familiar with the operation of CMVs worldwide and would be accompanied at all times by a driver who holds a State-issued CDL and is familiar with the routes to be traveled. In addition, Navistar provided a statement of driving history for Mr. Björkman.

#### **VI. Public Comments**

On April 7, 2022, FMCSA published notice of this application and requested public comments (87 FR 20499). The Agency received no comments.

#### **VII. FMCSA Decision**

FMCSA has determined that the process for obtaining a Swedish commercial license is comparable to the process for obtaining a State-issued CDL and therefore adequately ensures that this driver can safely operate a CMV in the United States. FMCSA reviewed documents submitted with the application including Mr. Björkman's Swedish commercial license, his driving record, a CMV experience statement, and accident statement. In 2019, the Agency granted similar exemptions to Navistar drivers on three occasions [April 15, 2019 (84 FR 15283); November 21, 2019 (84 FR 64400);

December 27, 2019 (84 FR 71525)]. Furthermore, the Agency has granted German drivers working for Daimler similar exemptions.<sup>1</sup>

Under this exemption, Mr. Björkman would not be subject to the drug and alcohol testing requirements, set forth in 49 CFR part 382, which apply only to drivers who are subject to the CDL requirements in 49 CFR part 383, the Canadian National Safety Code, or the Licencia Federal de Conductor (Mexico), and to their employers (49 CFR 382.103(a)). Therefore, to ensure a likely equivalent level of safety, the terms and conditions of this exemption require that Navistar implement a corporate drug and alcohol testing program substantially equivalent to the testing requirements in part 382.

Based on the information provided by Navistar, as described in section IV, including the driver's experience and safety record, FMCSA concludes that the exemption, subject to the terms and conditions set forth in section VIII, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 49 U.S.C. 31315(b)(1).

### **VIII. Terms and Conditions for the Exemption**

This exemption applies only to Navistar driver Anders Björkman. This driver is granted an exemption from the CDL requirement in 49 CFR 383.23 to allow him to drive CMVs in the United States without a State-issued CDL. Consequently, this driver is not subject to the requirements of 49 CFR part 382. When operating under this exemption, Navistar and Mr. Björkman are subject to the following terms and conditions:

(1) The driver and Navistar must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350-399);

---

<sup>1</sup> FMCSA granted Daimler drivers similar exemptions on May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151), September 10, 2018 (83 FR 45742) and April 27, 2022 (87 FR 25083).

- (2) The driver must be in possession of the exemption document and a valid Swedish commercial license;
- (3) The driver must be employed by and operate the CMV within the scope of his duties for Navistar or its partner Scania;
- (4) At all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a State-issued CDL who is familiar with the routes traveled;
- (5) Navistar must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving Mr. Björkman; and
- (6) Navistar must notify FMCSA in writing if Mr. Björkman is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs; and
- (7) Navistar must implement a drug and alcohol testing program substantially equivalent to the applicable requirements in 49 CFR part 382, subparts A-F, and require that Mr. Björkman be subject to those requirements.

### ***Preemption***

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

### ***Notification to FMCSA***

Under the exemption, Navistar must notify FMCSA within 5 business days of any crash (as defined in 49 CFR 390.5), involving Anders Björkman while operating a CMV under the terms of this exemption. The notification about crashes must include the following information:

- a. Identifier of the Exemption: “Navistar - Björkman;”

- b. Name of operating carrier and USDOT number;
- c. Date of the crash;
- d. City or town, and State, in which the accident occurred, or closest to the crash scene;
- e. Driver's name and license number;
- f. Co-driver's name (if any) and license number;
- g. Vehicle number and State license number;
- h. Number of individuals suffering physical injury;
- i. Number of fatalities;
- j. The police-reported cause of the crash, if provided by the enforcement agency;
- k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and
- l. The total on-duty time accumulated during the 7 consecutive days prior to the date of the crash, and the total on-duty time and driving time in the work shift prior to the crash.

**IX. Termination**

FMCSA has no reason to believe the motor carrier and driver covered by this exemption will experience any deterioration of their safety records. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

**Robin Hutcheson,**

*Deputy Administrator.*

